

DEPARTMENT OF DEFENSE



FREEDOM OF INFORMATION ACT PROGRAM CY 1981

SUMMARY OF THE REPORT TO CONGRESS

PREPARED BY:
OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
(PUBLIC AFFAIRS)
DIRECTORATE FOR FREEDOM OF INFORMATION
AND SECURITY REVIEW

**CY 1981 FREEDOM OF INFORMATION ACT
ANNUAL REPORT
— Highlights —**

A total of 64,676 public requests for records under the Freedom of Information Act (FOIA) were processed during 1981 by the Department of Defense (DoD). This compares with an average annual case load of 49,804 for the years 1975-80, the reporting period since the Act was amended, and is roughly 30% above average. One thousand forty-nine cases required time limit extensions — 86 for location, 195 for volume, and 768 for consultation.

The Department initially granted over 80% of the requests. Of the 12,432 denials, 527 were appealed by the requesters; 78 appeals were fully granted, 169 partially granted, and 280 again rejected. Only 2 court opinions were issued relative to DoD's administration of the Act. Both involved the Defense Contract Audit Agency; one was voluntarily dismissed by the plaintiffs and a government motion for summary judgment was granted by the court in the other. These were the first court opinions involving DoD since 1975.

Of the initially denied requests, 1 of 9 was because continued classification was warranted; 1 of 3 because the record was an internal memorandum; 1 of 20 because of statutory exemption; 1 of 9 was considered proprietary data; 1 of 4 because the record involved investigatory data; and 1 of 6 involved personal privacy. In addition, 8,296 requests could not be fulfilled in whole or in part for other reasons, such as lack of record requested, transferral to another agency, or lack of specificity sufficient to identify the requested records.

Administrative costs associated with these requests were approximately \$7,603,707, somewhat more than the \$5,589,671 average for the 1975-80 period. The average cost of processing a single case has risen from \$112 (1975-80) to \$118 (1981). Fee collections for records provided to the public amounted to \$399,781.

Questions regarding this report should be addressed to the Director, Freedom of Information and Security Review, OASD (Public Affairs), the Pentagon, Washington, D.C. 20301.

E R R A T A

The statement "These were the first court opinions involving DoD since 1975" in the "Highlights" section is based on an erroneous interpretation of previous reports submitted under the Freedom of Information Act and is therefore incorrect.

For the record, although DoD Agencies have been involved in litigation over the years, no court opinions or orders giving rise to a proceeding under Subsection (a)(4)(f) were issued against them since 1975 when reporting began.

**Department of Defense
Reporting Agencies under the Freedom of Information Act
(As of December 31, 1981)**

<u>Agency Abbreviation</u>	<u>Agency</u>	<u>Agency Head</u>
OSD/OJCS	Office of the Secretary of Defense (Including the Organization of the Joint Chiefs of Staff)	Caspar W. Weinberger
Dept. Army	Secretary of the Army	John O. Marsh, Jr.
Dept. Navy	Secretary of the Navy	John Lehman
Dept. Air Force	Secretary of the Air Force	Verne Orr
DCA	Defense Communications Agency	LtGen W. J. Hilsman, USA
DCAA	Defense Contract Audit Agency	Charles O. Starrett, Jr.
DIA	Defense Intelligence Agency	LtGen James A. Williams, USA
DIS	Defense Investigative Service	Thomas J. O'Brien
DLA	Defense Logistics Agency	VAdm Eugene A. Grinstead, USN
DMA	Defense Mapping Agency	MGen Richard M. Wells, USA
DNA	Defense Nuclear Agency	LtGen Harry A. Griffith, USA
NSA/CSS	National Security Agency Central Security Service	LtGen Lincoln D. Faurer, USAF
CINCLANTCOM	Commander-in-Chief, Atlantic Command	Adm H. D. Train, USN
CINCEURCOM	Commander-in-Chief, U.S. European Command	Gen B. W. Rogers, USA
CINCPACOM	Commander-in-Chief, Pacific Command	Adm R. L. J. Long, USN
CINCREDCOM	Commander-in-Chief, U.S. Readiness Command	Gen D. A. Starry, USA
CINCSO	Commander-in-Chief, U.S. Southern Command	Adm William J. Crowe, Jr., USN

Department of Defense FOI Appeal and Program Officials

<u>Agency Abbreviation</u>	<u>Appellate Authority</u>	<u>Program Official</u>
OSD/OJCS	Henry E. Catto, Jr. Asst SecDef Public Affairs	Charles W. Hinkle Director, FOI and Security Review, OASD/PA
Dept. Army	General Counsel Secretary of the Army	W. A. Anderson Chief, Records Mgmt Division The Adjutant General Center
Dept. Navy	Judge Advocate General/ General Counsel for Secretary of the Navy	Gwendlyn R. Aitken PA/FOIA Coordinator Naval Records Division OPNAV
Dept. Air Force	Robert J. McCormick Admin Asst to the Secretary of the Air Force	Kip Ward OPR for Freedom of Information Documentation Systems Division
DCA	LtGen W. J. Hilsman, USA Director	John T. Whealen General Counsel
DCAA	Thomas E. Cleaver Asst Director, Resources (Acting)	Connie Miller Records Administrator
DIA	John Brock DIA Counsel	R. Herbert Holzbauer Deputy Director for Support
DIS	Thomas J. O'Brien Director	Dale L. Hartig Asst for Information
DLA	VADM Eugene A. Grinstead, USN, Director	Col R. F. McCormack, USA Staff Director, Administration
DMA	Edward Obloy General Counsel	Del Malkie Public Affairs Officer
DNA	LtGen Harry A. Griffith, USA, Director	LtCol Dale F. Keller, Jr., USA Public Affairs Officer
NSA/CSS	Ann Caracristi Deputy Director	Eugene F. Yeates Director of Policy
CINCLANTCOM	Henry E. Catto, Jr. Asst SecDef Public Affairs	Lt (JG) John Botek Internal Relations Officer
CINCEUCOM	Henry E. Catto, Jr. Asst SecDef Public Affairs	Frank Lane Records Mgmt & Privacy Officer
CINCPACOM	Henry E. Catto, Jr. Asst SecDef Public Affairs	Kazuo Kibota PACOM Records Manager
CINCREDCOM	Henry E. Catto, Jr. Asst SecDef Public Affairs	LtCol Richard T. Petrio, USA Adjutant General
CINCSO	Henry E. Catto, Jr. Asst SecDef Public Affairs	CDR E. T. Lindberg, USN Assistant Legal Advisor

CONTENTS

	Page
Item 1 — Initial Determinations Resulting in not Providing All or a Portion of Record Requested	1
Item 2 — Initial Determinations	
A. Exemptions Invoked	2
B. Statutes Invoked	3
C. Other Reasons	4
(Description of "Other Reasons")	5
Item 3 — Initial Denial Officials by Participation	
A. Exemption Denials	6
B. Other Authority Denials	7
Item 4 — Number of Appeals and Results	8
Item 5 — Appeal Determinations	
A. Exemptions Invoked	9
B. Statutes Invoked	10
C. Other Reasons	11
Item 6 — Participation of Appellate Authorities	12
Item 7 — Court Opinions and Action Taken	14
Item 8 — FOIA Implementation Rules and Regulations	15
Item 9 — Fees Schedule and Fees Collected	16
Item 10 — Administrative Efforts	
A. Availability of Records	19
B. Calendar Year Costs and Fees Collected	20
C. Time Limit Extensions by Agency	23
D. Internal Memoranda (number and availability)	24
E. Other Information or Recommendations on Administering FOIA	25
Item 11 — FOIA Instructional and Education Efforts	26

Item 1

**Initial Determinations Resulting in not
Providing all or a Portion of Record Requested**

Reporting Activity	Total Demands		Reasons			
	Completed Public Requests	Completed Reportable Requests*	Statutory Exemptions	+	Other	= Total
OSD/OJCS	1,679	2,882	176		676	852
DEPT ARMY	31,467	31,467	1,571		1,087	2,658
DEPT NAVY	6,141	6,896	654		765	1,419
DEPT AF	17,641	21,066	1,255		3,521	4,776
DCA	88	88	4		2	6
DCAA	138	150	9		94	103
DIA	1,022	1,060	95		210	305
DIS	109	109	19		49	68
DLA	5,557	5,569	151		1,484	1,635
DMA	218	246	16		29	45
DNA	107	155	18		57	75
NSA/CSS	490	522	163		317	480
CINCLANTCOM	0	0	0		0	0
CINCEUCOM	6	13	5		5	10
CINCPACOM	8	8	0		0	0
CINCREDCOM	4	4	0		0	0
CINCSO	1	1	0		0	0
DoD Totals	64,676	70,236	4,136		8,296	12,432

*A reportable request is that portion of an FOI request resulting in a single record or group of records pertaining to one general subject area being acted upon by one Initial Denial Authority (IDA) who concludes that a single type of determination applies. Example: A single public request that requires the action of three IDAs in determining if a record under their jurisdiction is to be released would be counted as three reportable requests.

Item 2(a)

Exemptions Invoked on Initial Determinations

Exemptions by Number (552(b))

Reporting Activity	1	2	3	4	5	6	7	8	9	Total*
OSD/OJCS	112	172	25	26	176	43	6	0	0	560
DEPT ARMY	166	6	1	159	486	285	870	0	0	1,973
DEPT NAVY	65	25	15	93	234	215	7	0	0	654
DEPT AF	102	67	81	254	612	373	451	0	0	1,940
DCA	2	0	0	1	2	0	0	0	0	5
DCAA	0	0	0	1	3	2	3	0	0	9
DIA	85	5	27	0	4	7	0	0	0	128
DIS	0	0	2	1	1	15	6	0	0	25
DLA	2	0	3	97	58	9	1	0	0	170
DMA	1	0	0	4	7	4	1	0	0	17
DNA	7	0	2	2	3	4	0	0	0	18
NSA/CSS	80	0	150	5	2	4	2	0	0	243
CINCLANTCOM	0	0	0	0	0	0	0	0	0	0
CINCEUCOM	23	3	1	0	1	0	0	0	0	28
CINCPACOM	0	0	0	0	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0	0	0	0	0
DoD Totals	645	278	307	643	1,589	961	1,347	0	0	5,770
Percent of Total	11	5	5	11	28	17	23	0	0	100

*Totals may not agree with Item 1 because of cases where two or more exemptions were cited.

Item 2(b)

Statutes Invoked on Initial Determinations

Statute	Number of Times by Agency										DoD Total*
	OSD/OJCS	DEPT ARMY	DEPT NAVY	DEPT AF	DIA	DIS	DLA	DNA	NSA/CSS	CINCEUCOM	
5 U.S.C. 552(a)			5								5
18 U.S.C. 798	1								70		71
18 U.S.C. 1905		35		1			2		1		39
22 U.S.C. 2778		1									1
26 U.S.C. 6103			1								1
42 U.S.C. 2162				3						1	4
43 U.S.C. 2162	1										1
50 U.S.C. 401			1								1
50 U.S.C. 402				1					147		148
50 U.S.C. 403	4		1	27					73		105
Atomic Energy Act of 1954	8							2			10
Federal Rules of Criminal Procedures, Rule 6e						2					2
International Traffic in Arms Regulation							1				1
Public Law 86-36	14										14
Agency Totals	28	36	8	5	27	2	3	2	291	1	403

*Total may not agree with 552(b)(3) exemptions because of cases where two or more statutes were cited.

Item 2(c)

Other Reasons Cited on Initial Determinations

Reporting Activity	Category*					Total
	1	2	3	4	5	
OSD/OJCS	393	208	44	14	17	676
DEPT ARMY	479	246	151	186	25	1,087
DEPT NAVY	348	241	44	86	46	765
DEPT AF	321	2,544	298	245	113	3,521
DCA	0	2	0	0	0	2
DCAA	53	33	2	2	4	94
DIA	15	144	32	16	3	210
DIS	22	20	0	7	0	49
DLA	1,401	63	3	5	12	1,484
DMA	5	20**	1	1	2	29
DNA	24	26	7	0	0	57
NSA/CSS	5	144	0	120	48	317
CINCLANTCOM	0	0	0	0	0	0
CINCEUCOM	2	3	0	0	0	5
CINCPACOM	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0
DoD Totals	3,068	3,694	582	682	270	8,296

***Types of Categories**

1. Transferred Request
 2. Lack of Records
 3. Failure of Requester to Reasonably Describe Record
 4. Other Failures by Requesters to Comply with Published Rules and/or Directives
 5. Request Withdrawn by Requester
- (See following page for description of each category)

**Includes four determinations which cited DoDR 5400.7-R, Section 1, Paragraph 402(b)(3) as the basis for not providing mapping, charting, and geodesy products.

"OTHER REASONS" DESCRIBED

1. Transferred Request (Appeal):

This category applies when responsibility for making a determination or a decision on categories listed below is shifted from one Component to another Component/Agency.

2. Lack of Records:

This category covers situations wherein the requester is advised the agency has no record, or has no statutory obligation to create a record.

3. Failure of Requester to Reasonably Describe Record:

This category is specifically based on Section 552 (a)(3)(A) of the FOIA.

4. Other Failures by Requesters to Comply with Published Rules and/or Directives:

This category is based on Section 552 (a)(3)(B) of the FOIA and includes instances of failure to follow published rules concerning time, place, fees and procedures.

5. Request (Appeal) Withdrawn by Requester:

This category covers situations when the requester asks an agency to disregard the request (or appeal) or pursues the request outside FOIA channels.

Item 3

**Initial Denial Officials by Participation
(Agency Reports List Names and Titles)**

A. Exemption Denials

Agency	Number of Officials Categorized by Instances of Participation							Total Officials*
	Officials Authorized	1	2-3	4-5	6-10	11-40	41 +	
OSD/OJCS	51	19	10	7	6	4	0	46
DEPT ARMY	20	1	2	3	4	7	7	24
DEPT NAVY	124	14	10	7	11	6	2	50
DEPT AF	94	34	18	10	10	14	8	94
DCA	2	0	0	1	0	0	0	1
DCAA	7	2	0	0	1	0	0	3
DIA	1	0	0	0	0	2	1	3
DIS	1	0	0	0	0	1	0	1
DLA	42	3	7	0	1	6	0	17
DMA	9	0	4	0	1	0	0	5
DNA	1	0	0	0	0	1	0	1
NSA/CSS	1	0	0	0	0	0	2	2
CINCLANTCOM	1	0	0	0	0	0	0	0
CINCEUCOM	1	0	0	0	1	0	0	1
CINCPACOM	1	0	0	0	0	0	0	0
CINCREDCOM	1	0	0	0	0	0	0	0
CINCSO	1	0	0	0	0	0	0	0
DoD Totals	358	73	51	28	35	41	20	248

*Total officials may exceed number authorized due to personnel turnover.

Item 3

Initial Denial Officials by Participation
(Agency Reports List Names and Titles)
(Cont'd)

B. Other Authority Denials*

B. Other Authority Demands							
Agency	Number of Officials Categorized by Instances of Participation						Total Officials*
	Number of Instances						
	1	2-3	4-5	6-10	11-40	41 +	
OSD/OJCS	4	1	1	3	7	3	19
DEPT ARMY	0	0	0	3	1	4	8
DEPT NAVY	9	11	3	9	3	8	43
DEPT AF	0	0	0	0	0	0	0**
DCA	0	0	0	0	0	0	0
DCAA	0	2	1	2	1	1	7
DIA	0	0	0	0	0	1	1
DIS	0	0	0	0	0	1	1
DLA	0	0	0	0	0	0	0
DMA	2	3	0	1	1	0	7
DNA	0	0	0	0	0	1	1
NSA/CSS	0	0	0	1	1	1	3
CINCLANTCOM	0	0	0	0	0	0	0
CINCEUCOM	0	0	5	0	0	0	5
CINCPACOM	0	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0	0
DoD Totals	15	17	10	19	14	20	95

*Other category determination processing is not limited to statutory exemption denial authorities.

**The Department of the Air Force does not process "other category" determinations as request denials. Statutory exemption denial authority not required for this category.

Item 4

Number of Appeals and Results

Number of Appeals

Reporting Activity	Granted	Granted in Part	Denied	Total
OSD/OJCS	5	6	11	22
DEPT ARMY	27	60	67	154
DEPT NAVY	21	51	32	104
DEPT AF	13	37	148	198
DCA	0	0	0	0
DCAA	0	3	0	3
DIA	1	1	8	10
DIS	2	3	1	6
DLA	6	2	1	9
DMA	1	1	1	3
DNA	0	0	0	0
NSA/CSS	1	5	11	17
CINCLANTCOM	0	0	0	0
CINCEUCOM	0	0	0	0
CINCPACOM	0	0	0	0
CINCREDCOM	0	0	0	0
CINCSO	0	0	0	0
DoD Totals	77	169	280	526

Item 5(a)

Exemptions Invoked on Appeal Determinations

Exemptions by Number (552(b))

Reporting Activity	1	2	3	4	5	6	7	8	9	Total*
OSD/OJCS	4	0	0	3	9	6	1	0	0	23
DEPT ARMY	18	4	2	19	51	32	33	0	0	159
DEPT NAVY	4	0	1	20	38	27	11	0	0	101
DEPT AF	13	6	31	55	101	48	30	0	0	284
DCA	0	0	0	0	0	0	0	0	0	0
DCAA	0	0	0	0	0	0	3	0	0	3
DIA	9	0	2	0	0	0	0	0	0	11
DIS	0	0	0	0	0	3	1	0	0	4
DLA	1	1	1	2	0	0	0	0	0	5
DMA	0	0	0	0	0	0	1	0	0	1
DNA	0	0	0	0	0	0	0	0	0	0
NSA/CSS	14	0	16	0	0	1	0	0	0	31
CINCLANTCOM	0	0	0	0	0	0	0	0	0	0
CINCEUCOM	0	0	0	0	0	0	0	0	0	0
CINCPACOM	0	0	0	0	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0	0	0	0	0
DoD Totals	63	11	53	99	199	117	80	0	0	622
Percent of Total	10	2	8	16	32	19	13	0	0	100

*Totals do not agree with Item 4 because of cases where two or more exemptions were cited.

Item 5(b)

Statutes Invoked on Appeal Determinations

Statute	Number of Times by Agency					DoD Total*
	DEPT ARMY	DEPT NAVY	DEPT AF	DIA	NSA/CSS	
5 U.S.C. 552(a)			31			31
10 U.S.C. 3039	1					1
18 U.S.C. 793					1	1
18 U.S.C. 798					14	14
50 U.S.C. 403				2	14	16
Atomic Energy Act of 1954		2				2
Executive Order 12065		1				1
Agency Totals	1	3	31	2	29	66

*Total may not agree with 552(b)(3) exemptions because of cases where two or more statutes were cited.

Item 5(c)

Other Reasons Cited on Appeal Determinations

Reporting Activity	Category*					Total
	1	2	3	4	5	
OSD/OJCS	1	0	0	0	0	1
DEPT ARMY	22	10	0	5	0	37
DEPT NAVY	13	4	2	11	16	46
DEPT AF	13	0	0	0	0	13
DCA	0	0	0	0	0	0
DCAA	0	0	0	0	0	0
DIA	0	0	0	0	0	0
DIS	0	1	0	0	0	1
DLA	0	0	0	0	2	2
DMA	1	0	0	0	0	1
DNA	0	0	0	0	0	0
NSA/CSS	0	0	0	0	0	0
CINCLANTCOM	0	0	0	0	0	0
CINCEUCOM	0	0	0	0	0	0
CINCPACOM	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0
DoD Totals	50	15	2	16	18	101

*Types of Categories

1. Transferred Appeal
2. Lack of Records
3. Failure of Requester to Reasonably Describe Record
4. Other Failures by Requesters to Comply with Published Rules and/or Directives
5. Request Withdrawn by Requester.

See Page 5 for full description of "other reasons".

Item 6

PARTICIPATION OF APPELLATE AUTHORITIES
(Those Responsible for Denials in Whole or in Part)

Name	Title	No. of Instances of Participation*
<u>OSD/OJCS</u>		
Henry E. Catto, Jr.	Assistant Secretary of Defense (Public Affairs)	12
Benjamin Welles	Principal Deputy ASD (Public Affairs)	2
Thomas F. Lambert	Principal Deputy ASD (Public Affairs)	1
John A. Goldsmith	Special Assistant to the ASD (Public Affairs)	2
<u>DEPT ARMY</u>		
John O. Marsh, Jr.	Secretary of the Army	127
<u>DEPT NAVY</u>		
Walter Skallerup, Jr.	General Counsel	4
Hugh O'Neill	Principal Deputy	5
Harvey J. Wilcox	Acting General Counsel	9
J.S. Jenkins, RADM, JAGC, USN	Judge Advocate General	35
J.J. McHugh, RADM, JAGC, USN	Acting Judge Advocate General	30
<u>DEPT AF</u>		
Robert J. McCormick	Administrative Assistant, Secretary of the Air Force	31
Robert W. Crittenden	Deputy Administrative Assistant, Secretary of the Air Force	154
<u>DCAA</u>		
Darrell J. Oyer	Assistant Director, Resources	3

Item 6

PARTICIPATION OF APPELLATE AUTHORITIES
(Those Responsible for Denials in Whole or in Part)
(Cont'd)

Name	Title	No. of Instances of Participation*
<u>DIA</u>		
R.X. Larkin, MGEN, USA	Acting Director	2
R.X. Larkin, MGEN, USA	Deputy Director	5
E.A. Burkhalter, RADM, USN	Deputy Director	2
<u>DIS</u>		
Bernard J. O'Donnell	Director	4
<u>DLA</u>		
G.J. Post, LTGEN, USAF	Director	1
Emmett W. Bowers, MGEN, USA	Deputy Director	1
Charles F. Drenz, BGEN, USA	Deputy Director, Acquisition Management	1
<u>DMA</u>		
Edward J. Obloy	General Counsel	2
<u>NSA/CSS</u>		
Ann Caracristi	Deputy Director	16

*Includes only appeals denied in whole or in part. See Item 4, Page 8.

Item 7

Court Opinions and Action Taken

DCAA

Civil Action 81-0318. Voluntarily dismissed by the plaintiffs.

Civil Action 81-0531-A. Government motion for a summary judgment was granted by the court.

Item 8

FOIA IMPLEMENTATION RULES OR REGULATIONS

Agency	Document Identification	Fed. Reg. Ref.
DoD	DoD Directive 5400.7, 24 Mar 1980	45 F.R. No. 84 29 Apr 1980, Pg 28323
	DoD Regulation 5400.7R, Dec 1980	45 F.R. No. 236 5 Dec 1980, Pg 80502
DEPT ARMY	AR 340-17, Change 2, 15 Nov 1979	40 F.R. No. 40 27 Feb 1975, Pg 12776
DEPT NAVY	SECNAVINST 5720.42B, 13 Feb 1975	40 F.R. No. 56 21 Mar 1975, Pg 12776
DEPT AF	AFR 12-30, 19 Feb 1975	40 F.R. No. 37 24 Feb 1975, Pg 7901
	Interim Message Change 78-1	Not Published
DCA	DCA Instruction 210-225-1, Change 1, 31 Mar 1975	40 F.R. No. 70 10 Apr 1975, Pg 16203
DCAA	DCAA Regulation 5410.5, 29 Aug 1977, Change 1	42 F.R. No. 154 10 Aug 1977, Pg 40433
	DCAA Manual 5410.6	42 F.R. No. 154 10 Aug 1977, Pg 40433
DIA	DIA Regulation 12-39, 24 Aug 1981	Publication Pending
DIS	DIS Regulation 01-12, 14 Feb 1975	40 F.R. No. 34 19 Feb 1975, Pg 7289
DLA	DLA Regulation 5400.14, 2 Feb 1981	40 F.R. No. 34 6 Apr 1981, Pg 20541
DMA	DMA Instruction 5400.7A, 12 May 1975	40 F.R. No. 29 11 Feb 1975, Pg 6336
DNA	DNA Instruction 5400.7, 29 July 1980	Not Published
NSA/CSS	NSA/CSS Regulation 10-9, 3 Mar 1975	40 F.R. No. 34 19 Feb 1975, Pg 7303

Item 9

**FEE SCHEDULE AND FEES
COLLECTED**

The attached fee schedule, reprinted from Chapter 6, DoD Regulation 5400.7-R, December 1980, establishes standard costs collectible by Department of Defense Agencies.

\$399,781 was collected from the public for making records available during the year 1981 (see Item 10B for Agency totals).

CHAPTER VI
FEE SCHEDULE
Section 1
GENERAL PROVISIONS

6-100 Application

The fees described in this chapter apply to FOIA requests. They reflect direct search and duplication costs, collection of which are permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business nor are they meant as a substitute for any other schedule of fees, such as DoD Instruction 7230.7 (reference (q)).

6-101 Fee Assessment

- a. Minimum fees shall not be charged.
- b. When direct search and duplication costs for a single FOIA request total less than \$30.00, fees should be waived automatically. The DoD Components, however, may set aside the automatic waiver provision when, on the basis of good evidence, the Component can demonstrate that waiver of fees is not in the public interest. Multiple requests from a single requester or from those acting in behalf of a single requester in an effort to take advantage of the waiver may create a situation in which waiver should be denied by the Component.
- c. Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis. The following circumstances, however, describe the most common circumstances in which waiver or reduction of fees are most likely to be warranted.
 1. No record is located or all records are denied. However, fee charges are appropriate if the requester insists upon a search and agrees to such fees after being informed that the search is likely to be nonproductive or that the records are all likely to be exempt from release.
 2. A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records including additional information not requested.
 3. The records are to be made available in response to a news media requester whose requests under this regulation are reasonable in scope and frequency.
 4. The record is for a nonprofit public interest group and the subject of the requested record is known to be of wide public interest, and furnishing the information can be considered as primarily benefiting the general public.
 5. A previous denial is reversed in whole or in part and the search and reproduction costs involved are not substantial.

6-102 Computation of Fees

The fee schedule contained in this chapter is used to compute the search and duplication costs associated with processing a given FOIA request. Search fees shall be computed based on time actually spent. Neither time-based nor dollar-based minimum charges for search and duplication are authorized.

Section 2
COLLECTION OF FEES AND FEE RATES

6-200 Collection of Fees

Collection of charges and fees need not be made in advance of rendering the service unless the costs are expected to exceed the fee waiver threshold and the requester has not indicated a willingness in writing to pay. It frequently is more practical to collect charges and fees at the time of providing the service or property to the recipient when the requester specifically states that the cost involved shall be acceptable or acceptable up to a specified limit that covers anticipated costs. Collection of fees in advance is an appropriate requirement only when the requester has not agreed in writing to pay the anticipated fee or has not honored previous commitments to pay fees that were owed an agency or component.

6-201 Search Fees

a. Manual Search

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate (\$)</u>
Clerical	E9/GS8 and below	8
Professional	01-06/GS9-GS-15	16
Executive	07/GS16/ES1 and above	26

b. Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

c. Actual cost of transporting records or personnel to the search site may be included.

6-202 Duplication Fees

<u>Type</u>	<u>Cost per Page (¢)</u>
Printed Material	01
Office Copy	10
Microfiche	25

6-203 Audiovisual Documentary Materials

Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

6-204 Other Records

Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

Item 10A

Availability of Records
(New Categories or segregable portions of records now being released)

OSD/OJCS

Portions of the documents listed below were released during 1981 by the Office of the Director, Program Analysis and Evaluation:

- a. Capabilities for Limited Contingencies in the Persian Gulf, 15 June 1979.
- b. The Growing U.S. Involvement in Iran, 22 January 1975.
- c. Draft Presidential Memoranda —
 - 1. Recommended FY 1965-1969 Strategic Retaliatory Forces, 6 December 1963
 - 2. Recommended FY 1966-1970 Program for Strategic Offensive Forces, Continental Air & Missile Defense Forces and Civil Defense, 3 December 1964
 - 3. Theater Nuclear Forces (4 memoranda, dated 1965, January 1966, January 1967, and January 1968)
 - 4. Recommended FY 1967-1971 Strategic Offensive and Defensive Forces, 1 November 1965, 9 November 1966, and 15 January 1968
 - 5. NATO Strategy and Force Structure, 7 January 1969

Item 10 B

Calendar Year Costs and Fees Collected

Reporting Activity	Annual Cost*	Annual Fees Collected
OSD/OJCS	\$ 708,458	\$ 5,960
DEPT ARMY	2,633,104	159,802
DEPT NAVY	897,650	85,801
DEPT AF	2,174,794	65,609
DCA	23,456	953
DCAA	106,670	4,737
DIA	149,221	3,061
DIS	5,605	162
DLA	357,908	70,111
DMA	5,487	0
DNA	9,810	0
NSA/CSS	490,343	2,793
CINCLANTCOM	0	0
CINCEUCOM	39,189	747
CINCPACOM	1,798	0
CINCREDCOM	161	0
CINCSO	53	45
DoD Totals	\$7,603,707	\$399,781

*Based on reporting procedures established March 16, 1977, to capture a "best estimate" cost of administering FOIA as amended. The cost outline on the following pages provides a breakdown by DoD reporting agencies.

CALENDAR YEAR COSTS AND FEES COLLECTED BY DOD REPORTING AGENCIES

COST OUTLINE	OSD/OJCS	DEPT ARMY	DEPT NAVY	DEPT AF	DCA	DCAA	DIA	DIS	DLA
I Personnel Costs									
A. Estimated Manyears*	14.0	98.7	25.6	72.2	.6	1.0	2.0	0	8.9
B. Manyear Costs (Grades Considered)	\$449,815	\$1,702,897	\$477,201	\$1,227,718	\$16,800	\$78,828	\$56,588	\$0	\$170,745
C. Estimated Manhour Costs by Category									
(Fee Schedule Rates)**									
(1) Search Time	12,665	77,753	44,286	97,972	506	5,504	10,151	347	23,075
(2) Review & Excising	21,808	52,485	28,983	70,294	744	0	2,475	2,328	13,691
(3) Coordination & Approval	8,082	51,812	36,193	105,190	192	0	2,767	582	13,213
(4) Correspondence/Forms Preparation	2,056	27,472	22,345	62,558	12	0	1,485	253	12,653
(5) Other Activities	3,020	38,148	19,901	55,022	0	0	8,170	330	5,528
MANHOUR COST TOTAL	47,631	247,670	151,707	391,036	1,454	5,504	25,048	3,840	68,160
D. Total IB and IC	497,446	1,950,567	628,908	1,618,754	18,254	84,332	81,636	3,840	238,905
E. Overhead (Computed at 25%)	124,361	487,642	157,227	404,689	4,564	21,083	20,409	960	59,726
F. Total Personnel Costs	\$621,807	\$2,438,209	\$786,135	\$2,023,443	\$22,818	\$105,415	\$102,045	\$4,801	\$298,631
II Other Case-Related Costs									
A. Computer Search Time	\$139	\$44,671	\$20,451	\$22,504	\$0	\$0	\$38,952	\$18	\$45,805
B. Reproduction	5,217	92,351	34,850	46,483	638	283	417	521	6,102
C. Microfiche Reproduction	34	5,373	2,887	1,679	0	0	436	0	478
D. Printed Records	1,519	11,967	8,340	8,873	0	0	5,216	14	1,421
E. Total of Other Case-Related Costs	\$6,909	\$154,362	\$66,528	\$79,539	\$638	\$283	\$45,021	\$553	\$53,806
III Reporting/Other Costs									
A. Reporting Costs									
(1) Operational	\$2,262	\$14,089	\$18,374	\$20,334	\$0	\$778	\$1,724	\$200	\$3,156
(2) User	3,150	1,609	14,448	1,474	0	0	0	0	61
(3) Overhead (Computed at 25%)	1,353	3,925	8,206	5,452	0	194	431	50	804
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	72,977	20,910	3,959	44,552	0	0	0	0	1,450
C. Total Reporting/Other Costs	\$79,742	\$40,533	\$44,987	\$71,812	\$0	\$972	\$2,155	\$251	\$5,471
IV Summary									
A. Total Costs, Sections I thru III	\$708,458	\$2,633,104	\$897,650	\$2,174,794	\$23,456	\$106,670	\$149,221	\$5,605	\$357,908
B. Amount Collected from the Public	\$5,960	\$159,802	\$85,801	\$65,609	\$953	\$4,737	\$3,061	\$162	\$70,111

*Personnel assigned full-time or part-time FOI duties.

**Personnel other than IB.

Note: Figures may not add due to rounding.

CALENDAR YEAR COSTS AND FEES COLLECTED BY DOD REPORTING AGENCIES (Cont'd)

COST OUTLINE	DMA	DNA	NSA/CSS	CINCEUR	CINCLANT	CINCPAC	CINCRD	CINCSO	TOTALS
I Personnel Costs									
A. Estimated Manyears*	0	0	8.4	1.7	0	.6	0	0	233.0
B. Manyear Costs (Grades Considered)	\$ 0	\$ 0	\$215,058	\$28,983	\$0	\$ 936	\$ 0	\$ 0	\$4,425,569
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**									
(1) Search Time	156	2,026	21,923	1,336	0	40	16	9	297,755
(2) Review & Excising	1,132	1,009	10,916	445	0	211	0	0	206,521
(3) Coordination & Approval	1,631	2,090	4	377	0	84	79	0	222,296
(4) Correspondence/Forms Preparation	638	844	73	44	0	32	32	24	130,521
(5) Other Activities	196	1,468	48	116	0	134	2	0	132,083
MANHOUR COST TOTAL	3,753	7,437	32,954	2,318	0	501	129	32	989,176
D. Total IB and IC	3,753	7,437	248,012	31,301	0	1,437	129	32	5,414,745
E. Overhead (Computed at 25%)	939	1,859	62,003	7,825	0	359	32	8	1,353,687
F. Total Personnel Costs	\$4,692	\$9,296	\$310,005	\$39,126	\$0	\$1,796	\$161	\$40	\$6,768,430
II Other Case-Related Costs									
A. Computer Search Time	\$ 11	\$ 0	\$176,601	\$ 0	\$0	\$ 0	\$ 0	\$ 0	\$ 349,152
B. Reproduction	37	178	1,343	56	0	2	0	7	188,485
C. Microfiche Reproduction	0	0	0	0	0	0	0	6	10,893
D. Printed Records	12	10	0	0	0	0	0	0	37,372
E. Total of Other Case-Related Costs	\$ 60	\$ 188	\$177,944	\$ 56	\$0	\$ 2	\$ 0	\$13	\$ 585,902
III Reporting/Other Costs									
A. Reporting Costs									
(1) Operational	\$ 538	\$ 260	\$ 1,404	\$ 0	\$0	\$ 0	\$ 0	\$ 0	\$ 63,119
(2) User	50	0	144	6	0	0	0	0	20,942
(3) Overhead (Computed at 25%)	147	66	388	1	0	0	0	0	21,017
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	0	0	448	0	0	0	0	0	144,296
C. Total Reporting/Other Costs	\$ 735	\$ 326	\$ 2,384	\$ 7	\$0	\$ 0	\$ 0	\$ 0	\$ 249,375
IV Summary									
A. Total Costs, Sections I thru III	\$5,487	\$9,810	\$490,343	\$39,189	\$0	\$1,798	\$161	\$53	\$7,603,707
B. Amount Collected from the Public	\$ 0	\$ 0	\$ 2,793	\$ 747	\$0	\$ 0	\$ 0	\$45	\$ 399,781

*Personnel assigned full-time or part-time FOI duties.

**Personnel other than IB.

Note: Figures may not add due to rounding.

Item 10 C

Time Limit Extensions by Agency

Reporting Activity	I Unusual Circumstances			II & III Court Involvement	TOTAL
	Location	Volume	Consultation		
OSD/OJCS	20	60	518	0	598
DEPT ARMY	0	0	0	0	0
DEPT NAVY	17	65	4	0	86
DEPT AF	42	40	211	0	293
DCA	0	0	0	0	0
DCAA	0	17	18	0	35
DIA	3	5	0	0	8
DIS	0	3	6	0	9
DLA	0	0	2	0	2
DMA	0	0	2	0	2
DNA	0	5	7	0	12
NSA/CSS	0	0	0	0	0
CINCLANTCOM	0	0	0	0	0
CINCEUCOM	4	0	0	0	4
CINCPACOM	0	0	0	0	0
CINCREDCOM	0	0	0	0	0
CINCSO	0	0	0	0	0
DoD Totals	86	195	768	0	1,049

Item 10 D

**Internal Memoranda
(Including Directives not Published in Federal Register)**

Reporting Activity	No. of Memoranda	No. Available to Public
OSD/OJCS	6	6
DEPT ARMY	0	0
DEPT NAVY	2	2
DEPT AF	0	0
DCA	0	0
DCAA	0	0
DIA	0	0
DIS	0	0
DLA	0	0
DMA	1	1
DNA	1	1
NSA/CSS	0	0
CINCLANTCOM	0	0
CINCEUCOM	2	2
CINCPACOM	0	0
CINCREDCOM	0	0
CINCSO	0	0
DoD Totals	12	12

Item 10E (Optional)

**Other Information (Opinions) or Recommendations on
Administering FOIA**

The Department of Defense continues to support the Administration's proposed amendments to the Freedom of Information Act. These amendments would stop the misuse of the Act in ways that are inconsistent with the original objective of the Congress, remedy some of the shortcomings in the current Act, improve procedures for the disclosure of information, and give broader protection to certain types of information. The amendments, in our opinion, remedy the problems that have been identified while preserving the Act as an effective tool to keep the American public as informed as possible about the operations of its government.

Of the 1679 requests received in the Office of the Secretary of Defense, the following table categorizes the requesters by percentage of total case load:

<u>Category</u>	<u>Percentage</u>
Business Firms	23
Congress	.5
Foreign	4
Individual	32
Law Firms	18
News Media	7
Research	7
Special Interest	6
Students	1
Other	1.5
	<u>100.0</u>

Item 11

FOIA INSTRUCTIONAL AND EDUCATIONAL EFFORTS

- DoD** The lack of funds for a Department-wide training/educational program continues as a major concern and hampers the overall effectiveness and management of the DoD FOIA Program. The programmed rotation of personnel in key positions and normal rotation of other personnel demand some training/educational efforts. Components are directed, within their available resources, to conduct their own training/educational programs. The educational programs are to be targeted toward all members of the Component, developing a general understanding and appreciation of the DoD FOIA Program, whereas the training programs are to be focused toward those personnel who are involved in the day-to-day processing of FOI requests. The overall training/educational objective is being obtained and the Components' efforts are essential in maintaining the level of expertise to efficiently administer the Defense program.
- OSD/OJCS** Newly assigned personnel in the FOIA Program Director's Office attend conferences sponsored by OPM and other organizations. Briefings, orientations, and staff visits between Component Agencies encourage the participation of FOI personnel to attend FOI conferences, symposia and seminars presented by Federal and private organizations. This type of training received by OSD and OJCS personnel is key to the overall success of the OSD/OJCS Program.
- DEPT ARMY** The Department of the Army FOIA coordinators inform Army personnel of the provisions of the Act on a continual basis. FOIA points of contact are available throughout the Army at all times to answer questions, provide guidance and resolve problems concerning the Act. Personnel responsible for administering the FOIA Program attend FOIA seminars and workshops throughout the year.
- DEPT NAVY** The Department of the Navy's training efforts in FOIA have been minimal. Periodic briefings are conducted at naval commands to alert personnel of policy changes as applicable, and to familiarize newly assigned personnel who may participate in the processing of FOIA requests. A representative from the Office of General Counsel participated in various naval procurement seminars and presented comprehensive briefings to Navy contract and procurement specialists. DODCI courses dealing with the management concerns of Automated Information Systems are attended regularly by ADP managers and technicians. The Navy Finance Center has recently begun to publish in its periodical "Shore Talk" a series of articles concerning current FOIA/PA issues, and how those issues could affect disbursing officers, payroll clerks, etc. Despite lack of funds for a comprehensive DoD-wide training package, this Department is designing a training package to be incorporated into its FOIA directive. However, it will be general in nature and provide only an overview of the various levels of the Act. It will not be customized to the various levels of personnel and their functional areas of responsibility.

Item 11

**FOIA INSTRUCTIONAL AND EDUCATIONAL EFFORTS
(Cont'd)**

DEPT AF Air Force has a 24-minute film designed to create an interest in and an understanding of the Freedom of Information Act. The film has received a wide viewing throughout the Air Force. The FOIA instructions and education are disseminated via policy and guidance letters, news bulletin items, base newspapers, and question and answer papers.

DCA DCA provides a 45-minute briefing to all newly assigned personnel of the FOI and Privacy Acts. The DCA Headquarters General Counsel and Public Affairs Officer also assist in the educational process by briefing and providing guidance to affected personnel and action officers concerning the requirements of the Act.

DCAA Responsible individuals in all regional offices, Headquarters principal staff elements and Field Audit Managers have access to the Headquarters FOIA program manager for purposes of clarifying understanding of Agency-wide policies and procedures, obtaining additional guidance, as well as discussing real or hypothetical situations for purposes of expanding knowledge. Newly assigned Regional Records Management Officers and FOIA Coordinators are provided an 8-hour training and orientation in FOIA policies and procedures at DCAA Headquarters.

DIA The briefing of new coordinators and analysts directly involved in administering actions connected with the FOIA is accomplished on an "as requested" basis. This applies especially to classification reviews and the application of exemptions affiliated with the Act.

DIS All new DIS agents receive formal instruction regarding the provisions of the Act and its implementation by DIS. Headquarters personnel have received detailed on-the-job training and they present training programs to all other field and staff elements as needed. Extensive formal training has not been necessary due to the centralized organization of the FOIA mission in DIS.

DLA Individuals assigned FOIA responsibility participated in two seminars: "Litigation Under FOIA & PA (Center of National Securities Studies)" (7th Annual) and "Your Business, Your Trade Secrets, and Your Government."

DMA Individuals newly assigned FOIA responsibility will attend FOIA workshops. The Assistant General Counsel briefed personnel at a Public Affairs Conference on their new responsibilities concerning FOIA.

DNA Individuals within the Agency responsible for the release of information are kept current by applicable regulations, Agency policy and current court cases which are circulated routinely.

NSA/CSS Two members of the FOI processing unit attended a Department of Justice seminar on Information Law.